IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.646 OF 2004
IN
SUIT NO.1124 OF 2004

Foods and Inns Ltd. ..Plaintiffs

Vs.

Moon Beverages Ltd. ..Defendants

Mr.Ashish Kamath a/w Pradeep M.K.i/b R.G.Seth and Co. for the plaitniffs

Mr.Dilip Rai i/b Bharat Shah and Co. for the defendants

CORAM : S.U.KAMDAR, J
DATED : 3RD OCTOBER, 2005

P.C.:

. The present suit has been filed for the recovery of sum of Rs.12,68,354.30 towards goods sold and delivered. The reply has been filed in the present Summons for Judgment. It has been contended by the defendants that the dispute as to the quality of the goods were raised as far back as 2001 and relies upon letter which is annexed at Ex.C in his affidavit in reply. He also relies upon minutes of meeting as between the plaintiffs represented by President (Operations) of the

plaintiffs corporation and the General Manager of the defendant under which the parties have agreed to settle the claim at Rs.3 lacs towards full and final settlement and the said Rs.3 lacs has been paid as mentioned in the said minutes. The learned counsel for the plaintiffs has however disputed the validity of the said minutes on the ground that the said President (Operations) of the plaintiff company has resigned much before the said purported minutes dt.9.5.02. He is unable to indicate that the intimation of such resignation was given to the defendants. The defendants has entered into the minutes bonafide on the representation of the said President (Operations). In any event, in my view this raises triable issues and therefore, Summons for Judgment is dismissed accordingly. Unconditional leave to defend is granted. Suit is transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.